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RESPONSE UNDER 37 CFR 1.116
**EXPEDITED PROCEDURE
EXAMINING GROUP 3641**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE THE APPLICATION OF:

Inventor : Mitchell R. Swartz

Serial no. 09/750, 480

Filed: 12/28/00

For: **METHOD AND APPARATUS
TO MONITOR LOADING
USING VIBRATION**

This is a continuation of Serial no. 07/371,937

Filed: 06/27/89

PAPER:

Group Art Unit: 3641

Examiner: R. Palabrica

May 9, 2004

Commissioner of Patents and Trademarks
P.O.Box 1450 Alexandria, VA 22313-1450

To Whom it Does Concern:

NOTICE OF APPEAL

1. The Applicant hereby files a notice of appeal to the United States Patent Office Board of Appeals and Patent Interferences from the Examiner's final action: a Final Rejection of the above-entitled application, which was mailed on January 14, 2004 (Exhibit "A", copy is attached hereto). Applicant responded timely in less than two months. The Office has not responded to either the response or the the Petition, despite the Examiner's oral statement that this would be addressed.


05/14/2004 RMEBANT 00000060 09750480

01 FC:2401
02 FC:2251

165.00 OP
55.00-OP

2. Because the Office has refused to answer Applicant's statements, Declarations, and Exhibits, Applicant hereby files this Notice of Appeal, and asks the Board to Order the Examiner to demand that the Office permit the Applicant's pleadings reach the Board before the Applicant is required to seek assistance in the federal court system to enforce compliance by the Office with the normal standards of review.

Respectfully submitted,



Mitchell R. Swartz, ScD, MD, EE
Post Office Box 81135
Wellesley Hills, Mass. 02481

Certificate Of Mailing
[pursuant Section 512 and 37 CFR 1.8(a)]

May 9, 2004


To Whom it Does Concern:

I hereby certify that this correspondence will be deposited with the United States Postal Service by First Class Mail, postage prepaid, in an envelope addressed to
"The Commissioner of Patents and Trademarks
P.O.Box 1450 Alexandria, VA 22313-1450" on the date below.

Thank you.

Sincerely,

May 9, 2004



M.R. Swartz